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**FISCAL IMPACT STATEMENT**

**LS 7866**

**BILL NUMBER:** HB 1001

**NOTE PREPARED:** Feb 18, 2003

**BILL AMENDED:** Feb 17, 2003

**SUBJECT:** Budget Bill.

**FIRST AUTHOR:** Rep. Crawford

**FIRST SPONSOR:**

**BILL STATUS:** CR Adopted - 1<sup>st</sup> House

**FUNDS AFFECTED:** X GENERAL  
X DEDICATED  
X FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** (Amended) This bill makes appropriations for the state. The bill transfers money among funds and changes the uses for certain distributions. The bill excludes temporary service from the calculation of pension service credit.

This bill also directs the Lottery Commission to offer keno games. The bill also allows a riverboat community to impose a Supplemental Admission Tax.

The bill also provides for the recapture of bonus depreciation used to calculate federal adjusted gross income tax and updates references to the Internal Revenue Code.

It also allocates space in state juvenile facilities among juvenile courts in each county and makes changes in the Community Transition Program. The bill allows minimum security placements in a nonprofit or faith-based community transition program.

This bill also makes changes in the sharing of reimbursable costs for the Medicaid programs involving school corporations and private psychiatric residential treatment facilities.

The bill provides a school funding formula. It also requires counties to impose an excess levy to repay delinquent juvenile commitment obligations to the state. The bill authorizes bonding for certain projects and makes other changes.

**Effective Date:** (Amended) January 1, 2002 (Retroactive); July 1, 2002 (Retroactive); January 1, 2003 (Retroactive); Upon Passage; July 1, 2003.

**Explanation of State Expenditures:** (Revised) *Biennial Budget [SECTIONS 1-47]* - This bill establishes the state budget appropriations for FY 2004 and FY 2005. Total General Fund and Property Tax Replacement Fund appropriations are \$11,024.5 M for FY 2004 (a 5.1% increase over FY 2003) and \$11,353.2 M for FY 2005 (a 3.0% increase over FY 2004).

Of this amount, total operating appropriations are \$10,829.5 M for FY 2004 (a 5.3% increase over FY 2003) and \$11,158.7 M for FY 2005 (a 3.0% increase over FY 2004). Appropriations for capital projects represent \$389.9 M for the biennium.

Appropriations from the General Fund and the Property Tax Replacement Fund are provided by functional category in the following table.

<b>General Fund and Property Tax Replacement Fund: FY 2004-FY 2005.</b>			
<b>Functional Category</b>	<b>FY 2004</b>	<b>FY 2005</b>	<b>% Change</b>
<b>General Government</b>	320,684,327	323,920,200	1.0%
<b>Corrections</b>	558,232,970	560,385,611	0.4%
<b>Other Public Safety</b>	70,252,052	70,252,625	0.0%
<b>Conservation and Environment</b>	78,214,977	78,307,396	0.1%
<b>Economic Development</b>	47,966,958	47,966,958	0.0%
<b>Transportation</b>	507,000	507,000	0.0%
<b>Mental Health</b>	240,696,230	240,696,230	0.0%
<b>Public Health</b>	103,458,273	103,678,441	0.2%
<b>Medicaid</b>	1,343,519,812	1,452,319,812	8.1%
<b>Family and Children</b>	254,046,215	254,046,215	0.0%
<b>Social Services and Veterans</b>	218,807,215	218,807,215	0.0%
<b>Higher Education</b>	1,473,791,862	1,517,375,429	3.0%
<b>Education Administration</b>	56,745,362	56,745,362	0.0%
<b>Tuition Support - Gen. Fund</b>	2,006,826,280	2,088,092,946	4.1%
<b>Tuition Support - PTR Funds</b>	1,555,023,720	1,536,057,054	-1.2%
<b>Social Security - Teachers</b>	2,403,792	2,403,792	0.0%
<b>Teachers Retirement</b>	305,529,000	346,832,000	13.5%
<b>Other Local Schools</b>	217,030,192	182,886,645	-15.7%
<b>Other Education</b>	11,668,403	11,668,403	0.0%
<b>PTR and Homestead Credits</b>	1,928,549,699	2,029,734,638	5.2%
<b>Distributions - Gen. Fund</b>	35,585,733	35,585,733	0.0%
<b>Subtotal - Operating</b>	10,829,540,072	11,158,269,705	3.0%
<b>Higher Education Construction</b>	12,798,219	12,798,219	
<b>Other Construction</b>	182,141,317	182,141,317	
<b>Subtotal - Capital Projects</b>	194,939,536	194,939,536	
<b>Grand Total</b>	11,024,479,608	11,353,209,241	3.0%
* Appropriations "for the biennium" are apportioned 50% for each fiscal year. ** The appropriations in this table represent only those appropriations provided in HEA 1001-2003.			

Appropriations from dedicated and federal funds for the biennium and retroactive appropriations for FY 2003 are presented in the following table.

<b>Dedicated, Federal, and Retroactive Appropriations: FY 2004-FY 2005.</b>			
<b>Functional Category</b>	<b>FY 2004</b>	<b>FY 2005</b>	<b>% Change</b>
<b>BIF &amp; Lottery/Gaming Surplus</b>	3,066,014	3,066,014	
<b>Other Dedicated - Operating</b>	1,180,093,831	1,182,114,055	0.2%
<b>Other Dedicated - Construction</b>	29,637,940	29,637,940	0.0%
<b>Tobacco Settlement</b>	184,100,000	180,200,000	-2.1%
<b>Federal Funds</b>	602,225,994	608,893,994	1.1%
<b>Retroactive Appropriations *</b>	16,700,000		
<b>Total Dedicated</b>	2,015,823,779	2,003,912,003	
* Retroactive appropriations are for FY 2003.			

*Deappropriation for 21<sup>st</sup> Century Research and Technology Fund:* [SECTION 102] The bill eliminates an appropriation of \$15 M from the state General Fund to the 21<sup>st</sup> Century Research and Technology Fund for FY 2004.

*Lottery Revenue for the Teachers' Retirement Fund (TRF):* [SECTION 48] The bill requires the TRF Board to utilize the annual transfer of surplus Lottery revenue that would otherwise go to the Pension Stabilization Fund to reduce the employer contribution rate that school corporations would otherwise pay during FY 2004 and FY 2005. The bill requires any remainder during each fiscal year to be set aside in a special account to be used as a credit against the unfunded accrued liability of the Pre-1996 Account of the TRF. Under current statute, \$30.0 M annually in surplus Lottery revenue is deposited in the Pension Stabilization Fund to reduce the accrued unfunded liability of the TRF. It is estimated that the entire transfer will be utilized for employer contribution rate reduction.

*Teachers' Retirement Fund:* [SECTION 90] For the Teachers' Retirement Fund (TRF), the proposal transfers \$190 M each year of the biennium from the Pension Stabilization Fund to the Teachers' Retirement Fund to help pay retirement benefits. The state General Fund appropriates \$266.3 M in FY 2004 and \$310.3 M in FY 2005 for retirement benefits. The total amount appropriated for retirement benefits is \$456.3 M in FY 2004 and \$500.3 M in FY 2005.

*Admission Tax Guarantee:* [SECTION 49-51] The reduction in the Riverboat Admission Tax guarantee to local units and state agencies could potentially result in a savings to the Property Tax Replacement Fund (PTRF) estimated to total approximately \$48.3 M in FY 2004 and \$47.2 M in FY 2005.

The bill temporarily reduces the state's guarantee of Riverboat Admission Tax revenue distributed in a fiscal year to riverboat cities, counties, and county convention bureaus, and to the state Division of Mental Health and the State Fair Commission. For these entities the bill reduces the distribution guarantee during FY 2004 and FY 2005 from 100% of the FY 2002 distribution level to 50% of that distribution level. This guarantee would increase back to 100% beginning in FY 2006. In addition, the bill permanently reduces the Admission Tax guarantee for the distribution to the Indiana Horse Racing Commission (IHRC) from \$27.2 M to \$17.0 M annually. Admission Tax replacement is funded from Riverboat Wagering Tax revenue distributed to the Property Tax Replacement Fund (PTRF). Thus, the reduction in the Admission Tax guarantee results in a savings to the PTRF. P.L. 192-2002(ss) capped all future Riverboat Admission Tax distributions at the FY

2002 distribution levels. Also, under P.L. 192-2002(ss), the basis for calculating the Admission Tax was changed to a turnstile-only basis when a riverboat implements flexible scheduling. Since this change effectively reduces the Admission Tax base by about half, Admission Tax collections have declined as riverboats began flexible boarding. As a result, P.L. 192-2002(ss) also guaranteed the FY 2002 Admission Tax distribution level to local units and state agencies receiving revenue from the tax. The aggregate fiscal year guarantee level is approximately \$125.6 M.

*Homestead Credits:* Prior to 1984, taxpayers received property tax replacement credits (PTRC) and homestead credits that were calculated as a percentage of their total property tax bill. The statute was changed, effective in 1984, to exclude certain items such as taxes imposed to repay capital construction debt from the calculation. The state recalculated PTRC payments under the statutory change but didn't change the homestead credit calculation. So, homestead credits continued to be calculated and political subdivisions continued to be reimbursed for homestead credits as if no change had been made in the law.

Political subdivisions received, in total, no more than the amount that the political subdivisions would have received if homestead credits had been calculated according to the statutory formula. Had the homestead credits been calculated according to the statutory formula, the difference would have been collected by the political subdivisions in the form of additional property tax payments.

The state has been making up the difference in additional distributions from the Property Tax Replacement Fund. For CY 2002, the additional distributions totaled \$59.6 M. For CY 1984 through CY 2002, the aggregate total of additional distributions is estimated to be \$391 M.

Any liability for repayment of homestead credit overpayments made from 1984 through 2002 would be excused under this bill.

*Bonding Authority:* The bill authorizes universities to issue the following bonds.

I U-Bloomington Campus	Multidisciplinary Science Building Phase II	31,872,000
I U- South Bend Campus	Land Acquisition	2,000,000
I U P U I - Indianapolis	Research Institute Building III	33,333,333
I U P U I - Indianapolis	Information Sciences Building	15,000,000
I U P U I - Indianapolis	Campus Center (not eligible for fee replacement)	40,000,000
P U- West Lafayette Campus	Millennium Engineering Building	36,000,000
P U - West Lafayette Campus	Biomedical Engineering Building	13,000,000
P U - Calumet Campus	Parking Garage No. 1 (not eligible for fee replacement)	11,500,000
U S I	Renovation of University Center (not eligible for fee replacement)	9,750,000
U S I	Library	29,084,830
V U - Jasper Campus	Jasper Center New Academic Building	4,320,000
Ivy Tech	Richmond Building Addition Phase II	8,780,000
Ivy Tech	Indianapolis/Lawrence Roosevelt Building	10,000,000
Ivy Tech	Valparaiso New Campus, Phase I	15,843,000
Ivy Tech	Madison A&E	826,000
Total		261,309,163

The annual fee replacement payments on the eligible bonds over 20 years at an interest rate of 5% would be about \$16 M when all the bonds are issued.

*School Funding and Education Provisions:* The bill has a deficiency appropriation for FY 2003 of \$16.7 M and increases the CY 2003 tuition support cap to \$3,574 M.

The tuition support formula provides for a 2% increase in funding to local schools for CY 2004 and 2.1% for CY 2005. The following table shows the approximate distribution under the formula. The minimum guarantee is 1.75% in regular program revenue, and the maximum increase is 3% in regular program revenue. The grant variables for the school formula categorical calculations (special education, vocational education, at risk, primetime, and honors) remain the same for CY 2004 and CY 2005 as CY 2003.

	<b>CY 2003</b>	<b>CY 2004</b>	<b>% Inc.</b>	<b>CY 2005</b>	<b>% Inc.</b>
<b>State</b>	3,574,300,000	3,692,300,000	3.3%	3,756,000,000	1.7%
<b>Property Taxes</b>	1,776,100,000	1,830,200,000	3.0%	1,885,800,000	3.0%
<b>Transfer</b>	57,500,000				
<b>Prior Year Excise</b>	215,700,000	216,300,000	0.3%	216,900,000	0.3%
<b>Total</b>	5,623,600,000	5,738,800,000	2.0%	5,858,700,000	2.1%

*Regular Transportation Funding:* The bill reduces the state funding for regular transportation by 50% for FY 2004 and 100% for FY 2005. The appropriation for FY 2004 is \$11,997,909.

*Special and Vocational Transportation Funding:* The bill reduces the state funding for regular transportation by 50% for FY 2004 and 100% for FY 2005. The appropriation for FY 2004 is \$4,450,050.

*ADA Flat Grant Funding:* The bill reduces the state funding for regular transportation by 50% for FY 2004 and 100% for FY 2005. The appropriation for FY 2004 is \$17,927,299.

*Madison Consolidated Schools:* Madison Consolidated School Corporation would receive an adjustment to their previous year's revenue in the school formula for CY 2004. The adjustment equals the difference in the reduction in revenue from the dual enrollment adjustment and the additional revenue the school received from counting the students as full-time students instead of on a pro rata basis for CY 2000.

*Intermittent Employees:* The bill removes PERF benefits from intermittent employees. Based on a five year average number of intermittent employees (2,875), this provision is estimated to save approximately \$475,000 for each year of the biennium. [SECTION 41]

*Changes in Community Transition Program and Establishment of Minimum Security Release Programs:* This bill alters the existing community transition program and establishes a minimum security program that can be operated by nonprofit and faith-based organizations. Both of these programs could reduce the need for new beds if offenders can be transferred out of Department of Correction (DOC) facilities before the offender's earliest possible release date from DOC facilities.

The following describes the differences between these two programs.

<b>Comparing Community Transition Program and Nonprofit and Faith-Based Minimum Security Release Programs</b>		
	<b>Minimum Security Release Programs</b>	<b>Community Transition Program</b>
Eligible Operator	Nonprofit and Faith-Based Organizations	Community Corrections Programs, Probation Departments and Nonprofit and Faith-Based Organizations if Offender is Nonviolent (see below)
Type of Offender	Nonviolent (as defined in bill)	Violent and Nonviolent
Funding	50% of the rate received from community corrections and transition	Not specified, but from \$50 M appropriation for Community Corrections
Length of Time That Offender May Remain in Program	May enter the program after 90 days in DOC facility ... may remain in program until release date or until eligibility for community transition program	100 days for Class C and D offenders, 120 days for Class C offenders; 180 days for Class A and B offenders.
Method of Assigning Offenders to Program	Offender requests placement; DOC assigns placement depending on court decision and availability and willingness of Min. Security Release Provider	DOC contacts sentencing court about availability of program for offender; if available and court willing, placement is made

In this bill, nonviolent offenders are defined as offenders who have not been committed for one of the following offenses:

- Murder (IC 35-42-1-1).
- Voluntary manslaughter (IC 35-42-1-3).
- Involuntary manslaughter (IC 35-42-1-4).
- Reckless homicide (IC 35-42-1-5).
- Battery (IC 35-42-2-1) with a deadly weapon or battery causing death.
- Aggravated battery (IC 35-42-2-1.5).
- Kidnapping (IC 35-42-3-2).
- Confinement (IC 35-42-3-3) with a deadly weapon.
- Sexual battery (IC 35-42-4-8) with a deadly weapon.
- Rape (IC 35-42-4-1).

- Criminal deviate conduct (IC 35-42-4-2).
- Child molesting (IC 35-42-4-3).
- Child solicitation (IC 35-42-4-6).
- Sexual misconduct with a minor as a Class A felony (IC 35-42-4-9).
- Robbery (IC 35-42-5-1).
- Burglary as a Class A felony or a Class B felony (IC 35-43-2-1).
- Operating a motor vehicle causing death (IC 9-30-5-5).
- Arson (IC 35-43-1-1) resulting in serious bodily injury.
- Burglary (IC 35-43-2-1) resulting in serious bodily injury or with a deadly weapon.
- Resisting law enforcement (IC 35-44-3-3) with a deadly weapon.
- Escape (IC 35-44-3-5) with a deadly weapon.
- Rioting (IC 35-45-1-2) with a deadly weapon.

As of December 2002, an estimated 10,461 offenders were incarcerated for nonviolent offenses while 10,918 offenders were incarcerated for violent offenses.

*Cap on Juvenile Commitments:* The number of juveniles committed to the Department of Correction would be limited by each county's relative share of the state's population under the age of 18.

The following shows the number of commitments that would be permitted statewide over a 12-month period.

	<b>Females</b>	<b>Males</b>
Maximum Commitments	368	1,393
Number of Commitments in FY 2002	476	1,451
Counties With Commitments Under Cap	79	76
Counties With Commitments Over Cap	13	16

*State Police Funding:* [SECTION 4] The State Police funding sources are changed. This proposal takes \$35 M annually from the State Highway Fund (the fund which supports the Department of Transportation) to support the State Police and the Motor Carrier Inspection. The \$35 M will substitute for state General Fund appropriations.

*Fund Transfers:* [SECTION 121] The proposal requires the Budget Agency to transfer the following amounts from the specified funds to the state General Fund in the years listed.

<b>Fund</b>	<b>FY 2004</b>	<b>FY 2005</b>	<b>Total</b>
Public Depository Fund	\$50,000,000	\$0	\$50,000,000
Industrial Industries Fund	\$2,000,000	\$2,400,000	\$4,400,000
Administrative Services Fund		\$2,500,000	\$2,500,000
<b>Total</b>	<b>\$52,000,000</b>	<b>\$4,900,000</b>	<b>\$56,900,000</b>

**Explanation of State Revenues:** (Revised) *Keno:* (SECTION 43-47) The bill requires the Lottery Commission to offer keno on the premises of Lottery retailers as soon as practicable after June 30, 2003. The bill provides that current law applying to the proceeds of Lottery ticket sales apply to the proceeds of keno. It is estimated that keno sales could potentially generate \$15.0 M to \$52.0 M annually in additional surplus revenue from the Hoosier Lottery to the Build Indiana Fund (BIF).

A preliminary analysis by the Hoosier Lottery suggests that profits from sales of keno game tickets could potentially range from \$21.8 M to \$51.6 M annually. This range is based on sales activity in nine states where Lottery commissions operate keno games. Generally, these games require players to select up to 20 numbers from a table of numbers 1 to 80. The player receives a paper ticket or slip containing the numbers he or she has selected. Every four to five minutes a computer randomly selects 20 numbers from the number table, and these numbers are displayed on a TV monitor at the Lottery retailer's premises. The lower bound is based on estimates of first-year results of keno ticket sales in Missouri implemented in spring 2002. Initially, the Missouri Lottery expected participation in keno of about 1,000 retailers with profits totaling about \$21 M to \$22 M. According to Missouri Lottery officials, however, retailer participation is currently at about 550, and first-year profit is now expected to total about \$15.0 M. (The lower first-year totals are reportedly the result of early equipment problems and a \$20 per week telephone charge imposed on keno retailers by the Missouri Lottery.) The upper bound is an average of estimates based on sales and retailer totals, and payout rates, for keno during FY 2002 in eight states: Georgia, Kansas, Maryland, Massachusetts, New York, Oregon, Rhode Island, and West Virginia.

*Riverboat Admission Tax Guarantee:* (SECTION 49-51) The reduction in the Riverboat Admission Tax guarantee is estimated to reduce revenue distributed to the Indiana Horse Racing Commission (IHRC), the state Division of Mental Health, and the State Fair Commission from Admission Tax collections and replacement funds in the Property Tax Replacement Fund (PTRF). (See *Explanation of State Expenditures* for discussion of the Admission Tax guarantee provision.) Under the bill, the Admission Tax distribution to the IHRC will be reduced by approximately \$10.2 M annually beginning in FY 2004. The bill is estimated to reduce the Admission Tax distribution to: (1) the Division of Mental Health by \$1.63 M in FY 2004 and \$1.58 M in FY 2005; and (2) the State Fair Commission by \$2.44 M in FY 2004 and \$2.36 M in FY 2005.

*Riverboat Wagering Tax Imposition:* (SECTION 53 and 108) The bill eliminates the lag in computing cumulative adjusted gross (wagering) receipts for purposes of imposing the graduated Riverboat Wagering Tax on riverboats implementing flexible scheduling. This provision is estimated to increase Wagering Tax collections during the July 1, 2002, to June 30, 2003, tax period by approximately \$33.0 M.

The bill clarifies the imposition of the (graduated) Riverboat Wagering Tax applicable to riverboats implementing flexible scheduling. The bill amends current statute to stipulate that whenever a riverboat implements flexible scheduling during a July 1<sup>st</sup> to June 30<sup>th</sup> tax period, the Wagering Tax rate imposed on adjusted gross (wagering) receipts (AGR) received while the riverboat implements flexible scheduling is to be computed as if the riverboat had engaged in flexible scheduling during that entire July 1<sup>st</sup> to June 30<sup>th</sup> tax period. Under an administrative decision by the Indiana Gaming Commission, Wagering Tax rates during the July 1, 2002, to June 30, 2003, tax period have not been computed for AGR received after implementation of flexible scheduling based on cumulative AGR received since July 1, 2002. The starting point for the computation of cumulative AGR during the tax period was set by the Commission at August 1, 2002, for seven riverboats that implemented flexible scheduling on that date; and August 5, 2002, for three riverboats that implemented flexible scheduling on that date. A noncode provision of the bill retroactive to July 1, 2002, waives all penalties and interest due from a riverboat that underpaid the amount of Wagering Tax after June 30, 2002, because the tax rates on AGR received by the riverboat after implementation of

flexible scheduling were not based on the cumulative total AGR received by the riverboat from July 1, 2002, provided the riverboat pays the unpaid balance before May 1, 2003.

*Acceleration of Wagering Tax Distributions:* (SECTION 54) The bill accelerates by approximately one month the distribution schedule for Riverboat Wagering Tax distributions to the Property Tax Replacement Fund (PTRF) beginning in FY 2004. This is estimated to increase total Wagering Tax revenue to the PTRF in FY 2004 by approximately \$67.6 M; and in FY 2005 by approximately \$5.1 M.

The bill requires that the transfer of Riverboat Wagering Tax revenue from the State Gaming Fund to the PTRF be made no later than the last business day of the month in which the tax revenue is remitted by the riverboats. However, revenue received on the last business day of the month may be transferred to the PTRF in the next month. The acceleration of the distribution schedule begins in FY 2004. Generally, Wagering Tax revenue is deposited in the PTRF in the month following the month in which the revenue is remitted by the riverboats. Thus, June 2004 Wagering Tax collections that would otherwise be distributed to the PTRF in July 2004 (FY 2005) would, under the bill, be distributed to the PTRF in June 2004 (FY 2004). The estimated impact of this change is based on the Revenue Technical Committee Forecast (December 18, 2002) for the Riverboat Wagering Tax.

*Local Revenue Sharing:* (SECTION 54) The bill requires the FY 2003 set aside of Wagering Tax revenue for local revenue sharing to be deposited in the state General Fund before July 1, 2003. This would increase revenue to the state General Fund by \$33.0 M in FY 2003. The bill also requires the revenue sharing set aside in succeeding fiscal years to be split equally between the state General Fund and local revenue sharing. This distribution requirement would increase revenue to the state General Fund by \$16.5 M in FY 2004 and FY 2005.

P.L. 192-2002(ss) earmarks the first \$33.0 M in Riverboat Wagering Tax collections during a fiscal year for revenue sharing among non-riverboat counties and the cities and towns located in these counties. The money set aside for revenue sharing at the beginning of a fiscal year must be distributed before August 15<sup>th</sup> of the next succeeding fiscal year. Thus, the first \$33.0 M revenue sharing set aside occurred in July and August of 2002. This money has not yet been distributed, but, under current law, must be distributed by August 15, 2003.

*Unclaimed Lottery Prizes:* (SECTION 107) The bill requires the balance in unclaimed prize money of the Hoosier Lottery on June 30, 2003, to be transferred to the state General Fund. Under current law, all unclaimed prize money must be added to the pool from which future prizes are to be awarded or used for special prize promotions. The amount that goes into the unclaimed prize fund varies from \$10.0 M to \$12.0 M per year. However, the amount of unclaimed prize money at any given time in the fund varies and can't be estimated. Generally, unclaimed prize money comes from online prizes like Hoosier Lotto that are unclaimed for 180 days and scratch-off game prizes unclaimed for 60 days. Forecasts of future prize pay-outs of games assume that prizes will be covered with sales revenue and the money from unclaimed prizes. Thus, transfer of the unclaimed prize money could make future prize pay-outs at projected levels problematic.

*Internal Revenue Code Update:* (SECTION 58-60) This bill updates the reference to the Internal Revenue Code (IRC) to incorporate all the federal changes made up to January 1, 2003. These changes will only impact tax years beginning January 1, 2003, even though some of the federal provisions are retroactive. This includes changes resulting from the Job Creation and Worker Assistance Act of 2002 (P.L. 107-147). However, the bill requires that taxpayers add back the bonus first-year depreciation allowance provided under P.L. 107-147 in determining taxable Indiana adjusted gross income (AGI). Several provisions contained in

P.L. 107-147 could potentially affect revenue from the Indiana AGI Tax. These provisions are as follows.

Net Operating Loss Carryback: P.L. 107-147 temporarily extends the general net operating loss (NOL) carryback period from two years to five years for NOLs arising in taxable years ending in 2001 and 2002. The extension also applies to NOLs arising in the same years that qualify for a three-year carryback period.

Discharge of Certain S-Corporation Indebtedness: P.L. 107-147 provides that income from the discharge of indebtedness of an S-Corporation that is excluded from the S-Corporation's income is not taken into account as an item of income by shareholders. Thus, certain corporate losses are not allowed to pass through to a shareholder under this provision.

Non-Accrual Accounting Limitation: P.L. 107-147 restricts the non-accrual experience method of accounting to amounts received for the performance of certain professional services and for services provided by certain small businesses.

Foster Care Payment Exclusion: P.L. 107-147 expands the existing exclusion from income for qualified foster care payments. The definition of qualified foster care payments was expanded to include payments by any placement agency that is licensed or certified by a state or local government, or an entity designated by a state or local government to make payments to foster care providers. The definition of a qualified foster care individual is expanded to include all individuals placed by a qualified foster care placement agency, regardless of age at the time of placement.

Educator Expense Deduction: P.L. 107-147 establishes an above-the-line deduction for up to \$250 per year of expenses paid or incurred by an eligible educator for books, supplies, computer equipment (including related software and services), and other equipment and materials used in the classroom. The expenses must be otherwise deductible under the itemized deduction for an un-reimbursed employee trade or business expense. An eligible educator is a K-12 teacher, instructor, aide, counselor, or principal in a school for at least 900 hours during the school year. The provision is effective in tax year 2003 only.

Clean-Fuel Vehicle Deduction: P.L. 107-147 delays the phaseout of the above-the-line deduction for clean-fuel vehicles until 2004. The phaseout (equal to one-quarter of the deduction per year) was scheduled to begin in 2002. The deduction will be reduced by 25% for property placed in service in 2004, 50% for property placed in service in 2005, and 75% for property placed in service in 2006. The deduction is eliminated beginning in 2007.

A summary of the estimated revenue impact of the Job Creation and Worker Assistance Act of 2002 (P.L. 107-147) is outlined in the table below. This assumes that Indiana updates the Internal Revenue Code reference in IC 6-3-1-11 to January 1, 2003, to incorporate all the Internal Revenue Code changes made to date including those referenced above in P.L. 107-147; but excluding the special depreciation allowance.

Provision (Revenue Impact in \$M)	FY 2003	FY 2004	FY 2005
<b>NOL Carrybacks</b>	(26.00)	7.81	16.74
<b>Discharge S-Corp. Indebtedness</b>	.19	.28	.29
<b>Non-Accrual Accting. Limit</b>	.14	.16	.11
<b>Foster Care Exclusion</b>	(.07)	(.11)	(.17)
<b>Educator Expense Deduction</b>	(.51)	(.30)	(.04)
<b>Clean-Fuel Vehicle Deduction</b>	(.22)	(.31)	(.28)
<b>Total Impact on State Revenue</b>	(26.47)	7.53	16.65

*Medicaid Provisions:* This bill provides that 3% of the federal reimbursement for paid claims submitted by school corporations that are registered as Medicaid providers are to be distributed to the state General Fund (instead of school corporations) for use in consulting to encourage participation in this program. The remainder of the federal reimbursement is to continue to be distributed to the school corporations as under current statute. According to the Office of Medicaid Policy and Planning (OMPP), federal reimbursements to schools in state FY 2002 totaled about \$2.23 M. Three percent of this amount would be about \$67,000. [SECTION 71]

The bill also provides that OMPP is to adopt emergency rules to achieve sufficient expenditure reductions to avoid total expenditures in excess of the appropriations made in this bill for Medicaid (Current Obligations). OMPP is permitted to seek federal approval of a state Medicaid Plan amendment to reduce expenditures for optional Medicaid services necessary to achieve these cost reductions. [SECTION 113]

The bill also provides that the State Budget Agency is to develop a plan and seek federal approval to qualify services that are provided to exceptional learners in accessing or coordinating services under the state Medicaid Plan. The bill also requires the State Budget Agency and FSSA to establish a method to collect the state share of the costs of services provided to Medicaid-eligible children receiving services in private psychiatric residential treatment facilities from the county of the child's residence. According to OMPP, in 2002, the U.S. District Court, Southern District of Indiana, found that Indiana's Medicaid program violates federal Medicaid law by refusing to cover long-term psychiatric residential treatment facility services for Medicaid patients under the age of 21 for whom such mental health treatment has been found medically necessary. The case (*Collins vs. Hamilton*) is currently on appeal. Counties were previously covering the entire expenditure, estimated to be \$73 M annually. A preliminary estimate of the nonfederal share of expenditures that may be shifted to the state if the state's appeal fails is \$28 M to \$35 M annually. This bill would allow the state to provide this as a Medicaid service and to establish a method to collect the state share of this amount, \$28 M to \$35 M annually, from the counties. [SECTION 114]

*Abandoned Property Fund:* [SECTION 123] On June 30 of 2003, 2004, and 2005, the bill requires the State Treasurer to transfer the balance, less deductions, of the Abandoned Property Fund to the state General Fund. The bill provides that \$500,000 must remain in the fund. The transfer also recognizes appropriations made from the Fund for the Attorney General's personal services and other operating costs associated with the unclaimed property program as provided for in other sections of the bill. Under current law, the Treasurer of State would transfer the balance of the Fund, less deductions, to the Common School Fund. As a point of reference, in FY 2002, \$30.0 M was transferred from the Abandoned Property Fund to the Common School

Fund. The balance of the Abandoned Property Fund at the close of FY 2002. was \$46.9 M. Interest accrued on property in the Abandoned Property Fund is deposited in the state General Fund.

**Explanation of Local Expenditures:**

**Explanation of Local Revenues:** (Revised) *Riverboat Admission Tax Guarantee:* (SECTION 49-51) The reduction in the Riverboat Admission Tax guarantee is estimated to reduce revenue distributed to riverboat cities, counties, and county convention bureaus from Admission Tax collections and replacement funds in the Property Tax Replacement Fund (PTRF). (See *Explanation of State Expenditures* for discussion of the Admission Tax guarantee provision.) The bill is estimated to reduce total Admission Tax distributions to these local units by approximately \$33.9 M in FY 2004 and \$33.0 M in FY 2005. This revenue loss would occur only in FY 2004 and FY 2005, as the guarantee reduction for local units is eliminated in FY 2006.

The bill does, however, allow cities and counties receiving Admission Tax revenue to impose a Supplemental Admission Tax. During the period July 1, 2003, to June 30, 2004, the supplemental tax would be imposed at a rate that generates an amount of revenue equal to the difference between the local unit's guarantee amount (the FY 2002 distribution level) and the greater of either the local unit's actual Admission Tax distribution during FY 2003 or 50% of the local unit's guarantee amount. During the period July 1, 2004, to June 30, 2005, the supplemental tax rate would be calculated in the same manner, but using the local unit's FY 2004 actual Admission Tax distribution. The Indiana Gaming Commission is required by the bill to calculate the supplemental tax rate for each city and county. The county rate would include the rate for the county convention bureau. The supplemental tax must be adopted by ordinance of the city or county fiscal body.

*Local Revenue Sharing:* (SECTION 54) Under the bill, non-riverboat counties, and cities and towns located in these counties, would not receive revenue sharing distributions from the Riverboat Wagering Tax for FY 2003. In addition, the bill reduces the revenue sharing distributions by 50% to \$16.5 M annually beginning in FY 2004.

*Internal Revenue Code Update:* (SECTION 58-60) The IRC update could potentially affect taxable income of individual taxpayers, however, the impact on counties imposing local option income taxes (CAGIT, COIT, and/or CEDIT) is likely to be minimal.

*School Transfers:* [SECTION 74-78] Schools are allowed to transfer money from other funds to offset the reduction in state appropriations for the regular transportation, special and vocational education transportation, and ADA Flat Grant. The transfer is up to the amount the school receives from the state for FY 2004 and twice the amount of the FY 2004 transfer for FY 2005. The following table shows the maximum amount of the transfers.

	<b>FY 2004</b>	<b>FY 2005</b>
Regular Transportation	11,997,909	23,995,818
Special and Vocational Transportation	4,450,050	8,900,100
ADA Flat Grant	17,927,299	35,854,598

A school can not increase or decrease the levy of the fund that provides the transfer or receives the transfer.

*Madison Consolidated Schools:* [SECTION 103] Madison Consolidated School Corporation would receive an adjustment to their previous year's revenue in the school formula for CY 2004. The adjustment equals the difference in the reduction in revenue from the dual enrollment adjustment and the additional revenue the school received from counting the students as full-time students instead of on a pro rata basis for CY 2000.

*Juvenile Offender Balances:* This bill would require counties that are in arrears in their payments to the state for the costs of committing a juvenile offender to the Department of Correction before CY 2004 to increase the county property tax levy in CY 2004 and CY 2005 to make the late payments. A property tax levy under this provision would be in excess of the county's maximum permissible levy. In addition, the levy would not qualify for any property tax replacement credits (PTRC) or homestead credits.

According to a DOC report, 18 counties had a total balance of \$53.2 M in February 2002. As a percent of the county unit's tax levy, these balances range from 0.5% in Floyd County to 25.1% in Marion County. (The Marion County total levy used does not include levies for any special taxing unit.) The average for counties with a balance is 9.4%. The bill would raise county property tax levies by about \$26.6 M per year in CY 2004 and CY 2005.

**State Agencies Affected:** All.

**Local Agencies Affected:** All.

**Information Sources:** Available from Legislative Services Agency.

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